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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,419	10/16/2002	Glen T. Poss	00001	6747

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EXAMINER

WALBERG, TERESA J

ART UNIT PAPER NUMBER

3742

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,419

Applicant(s)

POSS, GLEN T.

Examiner

Teresa J. Walberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. The drawings are objected to because Fig 4 shows two different views and thus should be divided into two figures, Fig. 4A showing the assembled device and Fig. 4B showing an exploded view of the device. Fig. 6 should include reference numeral 3. The numerals and figures are rough and blurred. The structure making up the device should be clearly shown using line drawings, rather than gray scale.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1, 2, 16, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is directed to an "apparatus and process". A claim cannot be directed to both an apparatus and a process; it must be one or the other.

In claim 2, it appears that "pours" should be "porous".

Claims 16 and 18 refer to "the polymer", but the claims from which they depend do not refer to a polymer and the claims do not specify what part of the device includes a polymer.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 3, 4, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Quick et al (4,713,510).

Quick et al disclose (see col. 3, lines 30-46) a cartridge (10) for roasting food in a microwave oven (col. 4, lines 27-28), the cartridge being non-porous and having a susceptor layer (18) between layers of paper (16 and 26, see Fig. 4). See also Fig. 7, which shows a closed cartridge.

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While Quick et al do not state that the cartridge is used to roast coffee beans, it would be capable of performing this function and thus meets the terms of the apparatus claims.

6. Claims 1, 3, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsushita (Japan 2-171144).

Matsushita (see English language abstract) discloses roasting coffee beans by sealing the coffee beans in a sealed pouch, placing the pouch in a thermoplastic vessel and roasting the beans in a microwave oven.

7. Claims 4, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Trenchard (4,714,813).

Trenchard discloses a cylindrical (Fig. 1) or spherical (Fig. 4) hollow cartridge which converts a microwave oven's turntable rotation into rotation of the cartridge (see col. 1, lines 57-64) or includes a separate device to rotate the cartridge (see col. 1, lines 48-56).

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita in view of Maki et al.

Matsushita discloses roasting of coffee in a microwave oven, but does not disclose the type of coffee beans being Arabica or Robusta.

Maki et al teach that it is known in the art to roast Arabica and Robusta coffee beans.

It would have been obvious in view of Maki et al to use Arabica or Robusta as the coffee beans to be roasted in the apparatus of Matsushita, since Maki et al teach that it is desirable that Arabica and Robusta coffee beans be roasted.

10. Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita in view of Childress (5,919,390).

Matsushita, as discussed above, discloses roasting of coffee in a microwave oven, but does not disclose adding flavoring components as required by claims 12 and 13, the volume of seeds being 10% to 49% of the interior volume of the cartridge as required by claim 14, cooling the cartridge before opening as required by claim 15, and providing a window through which the product can be viewed as required by claim 18.

Childress discloses a package for roasting nuts or seeds in a microwave oven (see abstract) including adding flavoring components to the package (col. 2, lines 44-46), placing the material to be roasted in a bag having an inner layer of

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polyester and an outer layer of kraft paper (col. 2, lines 25-31) and filling 30% to 45% of the interior volume of the bag with the food product to be roasted (col. 2, lines 38-40), cooling the product after heating (col. 2, lines 60-61), and providing a window through which the product can be viewed (col. 2, lines 47-51).

It would have been obvious in view of Childress to provide flavoring components in the cartridge of Matsushita, the motivation being to enable producing a better tasting end product.

It would have been obvious in view of Childress to fill 10% to 49% of the cartridge of Matsushita, since Childress teaches that this fill level provides better heating results.

It would have been obvious in view of Childress to cool the product of Matsushita after heating to protect the user from heat injury.

It would have been obvious in view of Childress to provide a window in the cartridge of Matsushita through which the product can be viewed to enable the user to check the cooking status of the contents without opening the package.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams (4,699,290).

Adams discloses a lid or closure (A) that contains a fill pour spout that is covered with a first film material 25 and a second film material 20. While the film materials of Adams are not disclosed as being transparent or translucent, it

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would have been obvious to one of ordinary skill in the art to give the layers any desired appearance as a matter of aesthetics.


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Watkins (4,416,906), Matos, Watkins (2002/00453532), Gondek et al, Lorence, Bunke, and Bowen are cited to show heating cartridges for use in microwave ovens.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa J. Walberg whose telephone number is 703-308-1327. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Teresa J. Walberg
Primary Examiner
Art Unit 3742

tjw